

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE  
October 24, 2006 Session

**STATE OF TENNESSEE v. CONNIE HUGHES**

**Direct Appeal from the Criminal Court for Carter County  
No. S16999     Robert E. Cupp, Judge**

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**No. E2006-00062-CCA-R3-CD - Filed May 7, 2007**

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The defendant was convicted of premeditated first degree murder, abuse of a corpse (Class E felony), and forgery under \$1000 (Class E felony). The defendant was sentenced to life imprisonment for first degree murder and to two concurrent one-year sentences on the remaining convictions. The defendant appeals her convictions and submits two issues: (1) the trial court erred in admitting the defendant's statements which had previously been ruled inadmissible pursuant to the State's motion in limine; and (2) the trial court erred in failing to conduct a hearing to ensure the defendant was voluntarily waiving her right to testify, pursuant to Momon v. State, 18 S.W.3d 152 (Tenn. 1999). After review, we affirm the defendant's convictions.

**Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Criminal Court Affirmed**

JOHN EVERETT WILLIAMS, J., delivered the opinion of the court, in which JOSEPH M. TIPTON, P.J., and JAMES CURWOOD WITT, JR., J., joined.

Stacy L. Street, Elizabethton, Tennessee, for the appellant, Connie Hughes.

Robert E. Cooper, Jr., Attorney General and Reporter; David E. Coenen, Assistant Attorney General; Joe C. Crumley, Jr., District Attorney General; and Kenneth C. Baldwin, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

Roberta Woods, the victim, was last seen alive by family members on January 14, 2003, at her father's residence in Carter County. The victim's badly decomposed remains were found within the frame of a waterbed in the defendant's residence on December 13, 2003. The defendant's residence was a double-wide trailer which she rented from the victim and the victim's sons.

After the victim's disappearance, the defendant was interviewed by police. She related that the victim had left her car at the defendant's residence on January 14 and that the defendant had taken her home. The defendant also acknowledged that on the afternoon of January 14, she had met

a coworker in Elizabethton to lend the coworker \$100. Later that day, the defendant bought a new cooking stove at an appliance store in Elizabethton. The defendant used the victim's credit card to purchase the stove, which was the basis of the forgery indictment. The defendant said she returned the victim's cell phone to the victim's house that afternoon and left a note for the victim. The defendant said she had no idea of the victim's whereabouts and expressed on many occasions great concern for the victim's welfare to the victim's family, friends, and acquaintances.

The room in which the victim's body was found was maintained by the defendant as a "shrine" to her deceased teenage son. During some informal walkthrough inspections by the victim's family and by law officers after the victim's disappearance, the defendant denied access to this room.

The victim's body was eventually found by two of the victim's sons. They had entered the residence believing that the defendant had moved. Dr. Lee Jantz, a forensic anthropologist, stated that the body was fully clothed and wrapped in a rug. The body was decomposed to the point that no identifiable organs remained. Dr. Gretel Case Harlan Stephens, a forensic pathologist, in conjunction with the University of Tennessee anthropological staff, attributed the probable cause of death to a gunshot wound. This was based on holes in the victim's coat and sweatshirt, which were aligned. The holes were in the area of the victim's armpit. An x-ray of the victim's remains detected no metal fragments.

After discovery of the victim's remains, the defendant was interviewed by Tennessee Bureau of Investigation (T.B.I.) Agent Shannon Morton. During the first interview on December 13, 2003, the defendant stated that the victim came to the defendant's residence, carrying a handgun, on the morning of January 14. The victim intended to commit suicide and placed the gun to her head. The defendant said she struggled with the victim in an attempt to get the gun, and it discharged. The victim was standing near a loveseat on a blue rug. The defendant said she did not know where the bullet struck the victim's body but said that it was not in the head. The defendant said she checked the victim and did not detect a pulse or signs of breathing. The defendant said she did not want the victim's family to know about the suicide. The defendant then wrapped the victim in the blue rug and placed the body under the waterbed. She put the victim's purse with the body and did not see the gun so assumed it was with the victim. In this interview, the defendant then changed her account to say that her boyfriend, Richard Winters, had come to her residence after the victim was dead. She said that Winters moved the body to the waterbed.

The defendant further stated that she took the victim's cell phone to the victim's residence and left it, along with a note to the victim. Later, she met a coworker and lent her money. On the same day, the defendant bought a new stove using the victim's credit card. According to the defendant, the victim lent her the card the previous week. Upon the defendant's return to her home, she called a neighbor to move the stove into her kitchen. The defendant said she had not been forthcoming before out of fear that "people would think that I killed Roberta."

On the following day, the defendant was again interviewed. She answered follow-up questions concerning her statement of the previous day. The defendant then sought assurances that

she would be kept safe in jail from Richard Winters if she told what actually happened. The defendant stated that Richard Winters had come to her residence before 11:00 a.m. on January 14. Winters and the defendant were in her bedroom “getting ready to have sex.” The victim entered the residence, and Winters met her in the kitchen. The victim and Winters began a heated argument and exchanged threats of killing the other. Winters pulled a small gun from his coat pocket and shot the victim from a distance of approximately six inches. The victim fell against the loveseat. Winters then placed the body within the frame of the waterbed with the assistance of the defendant.

Subsequent to this statement, officers investigated the activities of Winters on January 14. Documentation and testimony were presented at trial showing that Winters had a dental procedure in the early morning on January 14 and later worked with other personnel at the Highway Department office.

Bradley Everett, a T.B.I. agent and forensic scientist, testified that blood stains on the defendant’s loveseat cushion were consistent with the DNA of the victim.

The defendant did not present proof.

#### Defendant’s Statements

The defendant first contends that the trial court erred in admitting evidence which it had previously excluded pursuant to the State’s motion in limine. The evidence consisted of the defendant’s statements made to Agent Morton on December 13 and 14.

The State’s motion in limine, seeking to exclude the defendant’s statements, was filed June 9, 2005. It was granted, without objection by the defendant, at the motion hearing on June 14, 2005. The trial began June 20, 2005. On the fourth day of trial, June 23, the State requested a reversal of the order granting the motion in limine, and it was denied. Later on June 23, the trial judge ruled that the defendant had “opened the door” concerning the statements during cross-examination of T.B.I. Agent Morton. The defendant’s statements were then introduced over the defendant’s objection.

The defendant now argues that the defense had prepared its trial strategy based on the assurance of the statements not being admissible. The defendant asserts that the admission of the statements on the fourth day of the trial undermined the defense strategy and unfairly prejudiced the defendant. The trial court denied the defendant’s motions for a mistrial at the time the statements were admitted were denied.

The defendant’s brief sets forth slightly more than four pages of argument supporting her position concerning this issue. However, the defendant failed to cite to any supporting legal authority and has, therefore, waived this issue on appeal. See R. Tenn. Ct. Crim. App. 10(b).

### Momon Issue

In her second issue, the defendant contends that the trial court committed reversible error in failing to ensure that the defendant made a knowing, intelligent, and voluntary waiver of her right to testify.

Our Supreme Court in Momon acknowledged that the right to testify is a fundamental right that may only be waived personally by the defendant. The court mandated that, in future trials, a trial court should require a hearing out of the presence of the jury to establish that a defendant, if not testifying, was personally waiving the right to testify in a knowing, voluntary, and intelligent manner. Momon, 18 S.W.3d at 161-62.

In this case, the record clearly reflects, and the trial court acknowledged, that this procedure was overlooked and omitted. The failure to conduct such a hearing is not, in all cases, reversible error. The Momon court, after setting forth suggested guidelines for the procedural hearing, also stated as follows:

The procedures are prophylactic measures which are not themselves constitutionally required. As such, the procedures adopted herein do not establish a new constitutional rule which must be retroactively applied. Trial courts should adhere to these procedural guidelines in all cases tried or retried after the date of this decision. However, the mere failure to follow these guidelines will not in and of itself support a claim for deprivation of the constitutional right to testify if there is evidence in the record to establish that the right was otherwise personally waived by the defendant.

Id. at 163.

The defendant herein testified at her motion for a new trial. She stated that she had obtained counsel either in December 2003 or January 2004. Their defense strategy anticipated that the defendant would testify at trial until the trial court excluded her statements pursuant to the motion in limine. The defendant said that, when the statements were later admitted, she knew she needed to explain them by her testimony but that there was insufficient time for preparation.

The defendant acknowledged that the decision to testify was hers. Her attorney had explained the procedural questions she would be asked in court on waiving her right to testify. The defendant said she realized the need for her testimony after the statements were admitted, but she was frightened due to her lack of preparation. Had she testified, she would have affirmed her statement that Richard Winters killed and concealed the victim.

Under these circumstances, the failure to conduct a litany to establish the defendant's rights concerning her testimony was not reversible error. The failure was merely procedural in this case. The defendant, by her own testimony at the new trial motion, confirmed her understanding of her rights and chose to waive her right to testify. The defendant made a knowing, intelligent, and

voluntary waiver of her right to testify. Her reasons for the choice to decline are immaterial to the merits of this issue.

#### Conclusion

For the aforestated reasons, we conclude from our review that the defendant has failed to demonstrate reversible error, and we affirm the judgments of the trial court.

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JOHN EVERETT WILLIAMS, JUDGE